UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/492,725	01/27/2000	Robert G. Arsenault	PD-980142	1296

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EXAMINER
JANVIER, JEAN D

ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 11/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _03 September 2002_ .

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-47_ is/are pending in the application.

   4a) Of the above claim(s) _1-17_ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _18-47_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

   If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____ .

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

   a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: .

Response to Arguments

In response to Applicant's argument that Hite "fails to disclose a system or method that uses advertisement objects and linked image objects, as recited in claims 18 and 24". However, the Examiner respectfully and completely disagrees with the Applicant's findings. In fact, the latter limitations are implicitly or inherently supported by the Hite's reference, as understood by those skilled in the art. In general, Hite discloses a system to display advertisements, stored on a set top box, on a viewer's unit or TV screen based on the viewer's profile when a breaks occurs during the broadcast of a TV show or a programming. The displayed advertisements comprising text and/or audio and/or video (image objects or graphical representation) formats as inherently practiced in the television industry and known to those skilled in the art. Additionally, advertisements are commonly associated with objects, such as graphical images, stored on computer readable media as a file within a directory (See abstract; col. 3: 16 to col. 8: 43).

Furthermore, Applicant argues that "Hite fails to disclose a method of displaying advertisements that generates an ordered list containing a prioritized sequence of advertising objects, as recited in independent claim 35". However, the Examiner respectfully and completely disagrees with the Applicant's findings. In fact, Hite discloses a system wherein a viewer is targeted with a list of advertisements based on his profile and wherein the advertisements will be displayed in a correct sequence according to a sequencing code stored at the point of viewing (viewer's set top box), contrary to the Applicant's argument. Indeed, a sequencing code would be stored at the point of display. It would be used to compute a new CID (commercial ID) code for a subsequent commercial or advertisement object. **By having a sequential CID code, viewer would see a series or list of commercials in correct order** (col. 4: 45-51).

Therefore, Applicants' arguments, as described herein, are not plausible and the

Applicant's request for allowance has been respectfully denied. The previous office action

rejection is maintained and the present action, as submitted below, **has been made final.**

DETAILED ACTION

Specification

Status of the claims

Claims 1-40 were originally presented for examination. After the first office action on the

merits, claims 1-17 were canceled and claims 41-47 were added. Claims 18-47 are now pending

in the Instant Application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and
distinctly claiming the subject matter which the applicant regards as his invention.

Claim 41 recites the limitation "the schedule". There is insufficient antecedent basis for

this limitation in the claim since this is the first time the term **schedule** is used in the claim. For

examination purpose, the Examiner assumes that the Applicant meant to refer to --a schedule--.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another
filed in the United States before the invention thereof by the applicant for patent, or on an
international application by another who has fulfilled the requirements of paragraphs (1),
(2), and (4) of section 371(c) of this title before the invention thereof by the applicant for
patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999

(AIPA) do not apply to the examination of this application as the application being examined

was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C.

122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment

by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 18-40 and 41-47 are rejected under 35 U.S.C. 102(e) as being anticipated by Hite

et al., US Patent 5,774, 170A.

As per claim 18, Hite et al. disclose an enhanced television (radio) advertising method

and/or system by targeting, delivering and displaying advertisements within specified

programming, during program breaks, in pre-determined households having specific and

addressable units while preventing advertisements from being displayed in other households (See

abstract). The system comprising appropriate hardware and software (first software, second

software, third software) wherein an Ad Administration Facility having stored therein

advertisements and programs for analysis and classification and the results of this analysis and

classification are stored in databases. In addition, advertisements or commercials are received

from agencies that created them and processed them as necessary for use in the system. These

processed commercials (first group or first source of advertisements) having associated CID

codes (commercials ID) constructed from information or results stored in databases associated

with the Administration Facility 100 of fig. 1 are conveyed or transmitted to Ad Transmission

Facility 200, which combines the processed commercials and CID codes with programming and

transmits the result to a plurality of Media Origination Facility 300 for delivery to the display site

(reception site) 400 based on the viewer's interest. The Media Origination Facility 300 also

receives programming and commercials from other sources (second group of commercials) and

creates some programming and commercials in its own facilities wherein these commercials and

programming are scheduled to be transmitted to the viewer's unit based on his demographic and

psychographic profile. Further, a viewer is targeted with a list of advertisements from the first

group or second group based on his profile and the advertisements will be displayed in a correct

sequence according to a sequencing code store at the point of viewing (fig. 1; col. 8: 63 to col. 9:

42; col. 3: 65 to col. 4: 2; col. 4: 45-51; col. 8: 29-38).

Moreover, Hite discloses, in general, a system to display advertisements, stored on a set

top box, on a viewer's unit or TV screen based on the viewer's profile when a breaks occurs

during the broadcast of a TV show or a programming. The displayed advertisements comprising

text and/or audio and/or video (image objects or graphical representation) formats as inherently

practiced in the television industry and known to those skilled in the art. Additionally,

advertisements are commonly associated with objects, such as graphical images, stored on

computer readable media as a file within a directory (See abstract; col. 3: 16 to col. 8: 43).

Finally, Hite discloses a system wherein a viewer is targeted with a list of advertisements

based on his profile and wherein the advertisements will be displayed in a correct sequence

according to a sequencing code stored at the point of viewing (viewer's set top box). Indeed, a

sequencing code would be stored at the point of display. It would be used to compute a new CID

(commercial ID) code for a subsequent commercial or advertisement object. **By having a**

sequential CID code, viewer would see a series or list of commercials in correct order (col.

4: 45-51).

See col. 3: 16 to col. 8: 43 for more details.

As per claims 19-23, Hite et al. disclose an enhanced television (radio) advertising

method and/or system by targeting, delivering and displaying advertisements within specified

programming, during program breaks, in pre-determined households having specific and

addressable units while preventing advertisements from being displayed in other households (See

abstract). The system comprising appropriate hardware and software wherein an Ad

Administration Facility having stored therein advertisements and programs for analysis and

classification and the results of this analysis and classification are stored in databases. In

addition, advertisements or commercials are received from agencies that created them and

processed them as necessary for use in the system. These processed commercials (first group or

first source of advertisements) having associated CID codes (commercials ID) constructed from

information or results stored in databases associated with the Administration Facility 100 of fig.

1 are conveyed or transmitted to Ad Transmission Facility 200, which combines the processed

commercials and CID codes with programming and transmits the result to a plurality of Media

Origination Facility 300 for delivery to the display site (reception site) 400 based on the viewer's

interest. The Media Origination Facility 300 also receives programming and commercials from

other sources (second group of commercials) and creates some programming and commercials in

its own facilities wherein these commercials and programming are scheduled to be transmitted to

the viewer's unit based on his demographic and psychographic profile. Finally, a viewer is

targeted with a list of advertisements from the first group or second group based on his profile

and the advertisements will be displayed in a correct sequence according to a sequencing code

store at the point of viewing (fig. 1; col. 8: 63 to col. 9: 42; col. 3: 65 to col. 4: 2; **col. 4: 45-51;**

col. 8: 29-38).

See col. 3: 16 to col. 8: 43 for more details.

As per claim 24, Hite et al. disclose an enhanced television (radio) advertising method

and/or system by targeting, delivering and displaying advertisements within specified

programming, during program breaks, in pre-determined households having specific and

addressable units while preventing advertisements from being displayed in other households (See

abstract). A suitable process is used to target prospective viewers of a set of advertisements using

database search and list selection procedures. The result of this process is a set of appropriate

CID codes for the prospective viewers. These CID codes are transmitted to the viewing device or

unit where it is stored and subsequently used to match CID transmitted with advertisements

embedded in a programming. When a match is found between the locally stored CID and the

CID (commercial ID) transmitted with the advertisement or commercial, the commercial is then

presented to the viewer. If there is no match, the commercial is ignored and not displayed (col. 3:

65 to col. 4: 18; col. 8: 29-38). Moreover, Hite discloses, in general, a system to display

advertisements, stored on a set top box, on a viewer's unit or TV screen based on the viewer's

profile when a breaks occurs during the broadcast of a TV show or a programming. The

displayed advertisements comprising text and/or audio and/or video (image objects or graphical

representation) formats as inherently practiced in the television industry and known to those

skilled in the art. Additionally, advertisements are commonly associated with objects, such as

graphical images, stored on computer readable media as a file within a directory (See abstract;

col. 3: 16 to col. 8: 43).

As per claims 32-34, Hite et al. disclose an enhanced television (radio) advertising

method and/or system by targeting, delivering and displaying advertisements within specified

programming, during program breaks, in pre-determined households having specific and

addressable units while preventing advertisements from being displayed in other households (See

abstract). A suitable process is used to target prospective viewers of a set of advertisements using

database search and list selection procedures. The result of this process is a set of appropriate

CID codes for the prospective viewers. These CID codes are transmitted to the viewing device or

unit where it is stored and subsequently used to match CID transmitted with advertisements

embedded in a programming. When a match is found between the locally stored CID and the

CID (commercial ID) transmitted with the advertisement or commercial, the commercial is then

presented to the viewer. If there is no match, the commercial is ignored and not displayed (col. 3: 65 to col. 4: 18; col. 8: 29-38).

As per claim 25-31 and 36-40, Hite et al. disclose an enhanced television (radio) advertising method and/or system by targeting, delivering and displaying advertisements within specified programming, during program breaks, in pre-determined households having specific and addressable units while preventing advertisements from being displayed in other households (See abstract). When a match is found between the locally stored CID and the CID (commercial ID) transmitted with the advertisement or commercial, the commercial is then presented to the viewer. If there is no match, the commercial is ignored and not displayed and a default advertisement in the batch of locally stored advertisements having a low priority is considered unless it is replaced with a higher priority commercial (col. 3: 65 to col. 4: 18). Moreover, an unconditional preemptable commercial may be subject to substitution or replacement whenever other higher priority commercials are available (col. 3: 55-57; col. 8: 29-38). Advertisements are transmitted and stored locally in a viewer's unit along with suitable CIDs to be subsequently presented to the viewer. A broadcast with a break to present a targeted commercial may then be transmitted with codes or CIDs in the break point. If there is a match between the stored CIDs and the transmitted CIDs, an appropriate commercial is presented, perhaps more than once. If a certification or registration code is included, that code is returned upstream to the signal origination site when commercials are successfully presented. **The presented or used commercial will then be replaced with another commercial or a new commercial, which is just received and stored in the viewer's unit, thereby updating** the local database or local

storage medium associated with the viewer's unit and especially if the newly received advertisement has similar content as the previously viewed advertisement. Further, when there is no match between the stored CID and the received CID associated with the commercial break embedded in the transmitted program, no commercial will be displayed. However, there is always a default advertisement to be displayed. In the case of multiple matches, a prioritization programming will be employed to determine which commercials to be displayed and which ones to ignore. It is to be understood that each advertisement stored in the system to be displayed at the appropriate time has an expiration date and at the end of the expiration date, the advertisement will no longer to be displayed. In the end, the current system has the necessary hardware and software to replace a previously viewed advertisement with a newly transmitted advertisement, to ignore inappropriate advertisement and display a default one having a low priority, to select the advertisement having the highest priority in the case of multiple matches (col. 5: 39- col. 8: 38).

As per claim 35, Hite et al. disclose an enhanced television (radio) advertising method and/or system by targeting, delivering and displaying advertisements within specified programming, during program breaks, in pre-determined households having specific and addressable units while preventing advertisements from being displayed in other households (See abstract). When there is no match between the stored CID and the received CID associated with the commercial break embedded in the transmitted program, no commercial will be displayed. However, there is always a default advertisement to be displayed. In the case of multiple matches, a prioritization programming will be employed to determine which commercials to be

displayed and which ones to ignore, thereby creating at least one list **or first order** list of
advertisements that will be presented on the user's unit or TV in a certain sequence or order
according to this prioritization programming (**col. 4: 45-51**; see claims 10, 16, 54 and 59 of the
current reference).

Moreover, Hite discloses, in general, a system to display advertisements, stored on a set
top box, on a viewer's unit or TV screen based on the viewer's profile when a breaks occurs
during the broadcast of a TV show or a programming. The displayed advertisements comprising
text and/or audio and/or video (image objects or graphical representation) formats as inherently
practiced in the television industry and known to those skilled in the art. Additionally,
advertisements are commonly associated with objects, such as graphical images, stored on
computer readable media as a file within a directory (See abstract; col. 3: 16 to col. 8: 43).

Finally, Hite discloses a system wherein a viewer is targeted with a list of advertisements
based on his profile and wherein the advertisements will be displayed in a correct sequence
according to a sequencing code stored at the point of viewing (viewer's set top box). Indeed, a
sequencing code would be stored at the point of display. It would be used to compute a new CID
(commercial ID) code for a subsequent commercial or advertisement object. **By having a
sequential CID code, viewer would see a series or list of commercials in correct order** (col.
4: 45-51).

As per claim 41, Hite et al. disclose an enhanced television (radio) advertising method
and/or system by targeting, delivering and displaying advertisements within specified
programming, during scheduled program breaks, in pre-determined households having specific

and addressable units while preventing advertisements from being displayed in other households (See abstract). The system comprising appropriate hardware and software (first software, second software, third software) wherein an Ad Administration Facility having stored therein advertisements and programs for analysis and classification and the results of this analysis and classification are stored in databases. In addition, advertisements or commercials are received from agencies that created them and processed them as necessary for use in the system. These processed commercials (first group or first source of advertisements) having associated CID codes (commercials ID) constructed from information or results stored in databases associated with the Administration Facility 100 of fig. 1 are conveyed or transmitted to Ad Transmission Facility 200, which combines the processed commercials and CID codes with programming and transmits the result to a plurality of Media Origination Facility 300 for delivery to the display site (reception site) 400 based on the viewer's interest. The Media Origination Facility 300 also receives programming and commercials from other sources (second group of commercials) and creates some programming and commercials in its own facilities wherein these commercials and programming are scheduled to be transmitted to the viewer's unit based on his demographic and psychographic profile. Further, a viewer is targeted with a list of advertisements from the first group or second group based on his profile and the advertisements will be displayed in a correct sequence according to a sequencing code store at the point of viewing (fig. 1; col. 8: 63 to col. 9: 42; col. 3: 65 to col. 4: 2; col. 4: 45-51; col. 8: 29-38).

Moreover, Hite discloses, in general, a system to display advertisements, stored on a set top box, on a viewer's unit or TV screen based on the viewer's profile when a breaks occurs during the broadcast of a TV show or a programming. The displayed advertisements comprising

text and/or audio and/or video (image objects or graphical representation) formats as inherently

practiced in the television industry and known to those skilled in the art. Additionally,

advertisements are commonly associated with objects, such as graphical images, stored on

computer readable media as a file within a directory (See abstract; col. 3: 16 to col. 8: 43).

Finally, Hite discloses a system wherein a viewer is targeted with a list of advertisements

based on his profile and wherein the advertisements will be displayed in a correct sequence

according to a sequencing code stored at the point of viewing (viewer's set top box). Indeed, a

sequencing code would be stored at the point of display. It would be used to compute a new CID

(commercial ID) code for a subsequent commercial or advertisement object. **By having a**

sequential CID code, viewer would see a series or list of commercials in correct order (col.

4: 45-51).

See col. 3: 16 to col. 8: 43 for more details.

As per claims 42, 44, 45, 46 and 47, Hite discloses, in general, a system to display

advertisements, stored on a set top box, on a viewer's unit or TV screen based on the viewer's

profile when a breaks occurs during the broadcast of a TV show or a programming. The

displayed advertisements comprising text and/or audio and/or video (image objects or graphical

representation) formats as inherently practiced in the television industry and known to those

skilled in the art. Additionally, advertisements are commonly associated with objects, such as

graphical images, stored on computer readable media as a file within a directory (See abstract;

col. 3: 16 to col. 8: 43).

Finally, Hite discloses a system wherein a viewer is targeted with a list of advertisements based on his profile and wherein the advertisements will be displayed in a correct sequence according to a sequencing code stored at the point of viewing (viewer's set top box). Indeed, a sequencing code would be stored at the point of display. It would be used to compute a new CID (commercial ID) code for a subsequent commercial or advertisement object. **By having a sequential CID code, viewer would see a series or list of commercials in correct order** (col. 4: 45-51).

See col. 3: 16 to col. 8: 43 for more details.

As per claim 43, Hite et al. disclose an enhanced television (radio) advertising method and/or system by targeting, delivering and displaying advertisements within specified programming, during scheduled program breaks, in pre-determined households having specific and addressable units while preventing advertisements from being displayed in other households (See abstract; col. 3: 1-10).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication from the Examiner should be directed to

Jean D. Janvier, whose telephone number is (703) 308-6287). The aforementioned can normally

be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner

by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached

at (703) 305- 8469.

For information on the status of your case, please call the help desk at (703) 308-1113.

Further, the following fax numbers can be used, if need be, by the Applicant(s):
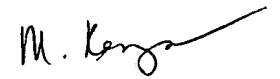
After Final- 703-872-9327

Before Final -703-872-9326

Non-Official Draft- 703-746-7240

Customer Service- 703-872-9325

Please provide support, that is page and line numbers, for any amended or new

claim in an effort to help advance prosecution; otherwise any new claim language that is

introduced in an amended or new claim may be considered as new matter, especially if the

Application is a Jumbo Application.

JDJ
11/14/02

MELANIE A. KEMPER
PRIMARY EXAMINER